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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/892,185	06/26/2001	Brett O. Hall		1737

7590 07/30/2002

Brett O Hall
4206 Lazy Creek Drive
Marietta, GA 30066

EXAMINER

GIBSON, ERIC M

ART UNIT

PAPER NUMBER

3661

DATE MAILED: 07/30/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/892,185

Applicant(s)

HALL, BRETT O.

Examiner

Eric M Gibson

Art Unit

3661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 June 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☒ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Certificate of Correction

1. The copies of the Certificate of Correction filed with the application are improper, see MPEP §1485.

Oath/Declaration

2. The oath or declaration is defective because:
 - a. It does not identify the mailing or post office address of each inventor. A mailing or post office address is an address at which an inventor customarily receives his or her mail and may be either a home or business address. The mailing or post office address should include the ZIP Code designation. The mailing or post office address may be provided in an application data sheet or a supplemental oath or declaration. See 37 CFR 1.63(c) and 37 CFR 1.76.
 - b. The residence and mailing address are incomplete. **Residence should be City/State of the applicant and the mailing address should be the P.O./Street, City/State and ZIP Code of the applicant.** Listing the full address (P.O./Street, City/State and ZIP Code) of the applicant under residence and "same as residence" for the mailing address is also considered acceptable.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

3. Claims 23 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by La Gambina (GB 2233372A).

a. As per claim 23, La Gambina teaches a road traffic control system including a plurality of speed bumps disposed along the roadway (page 2, third para.) and a controller responsive to a traffic command signal to impede the passage of vehicles (page 5).

b. As per claim 24, La Gambina teaches a road traffic control system including a plurality of speed bumps disposed along the roadway (page 2, third para.) and a controller responsive to a traffic command signal to impede the passage of vehicles (page 5).

4. Claim 25 is rejected under 35 U.S.C. 102(b) as being anticipated by Bonar (US004692764A).

a. As per claim 25, Bonar teaches sensing at least one parameter of a first and second vehicle (radar 12, figure 3), determining the likelihood of a collision

(distance comparator 18, figure 3) and impeding the movement of at least one vehicle to avoid the collision (automatic braking system 32, figure 3).

5. Claim 26 is rejected under 35 U.S.C. 102(e) as being anticipated by Yoshioka et al. (US006035053A).

a. As per claim 26, Yoshioka teaches sensing at least one parameter of at least one vehicle and at least one parameter of at least one pedestrian (S1, figure 3, column 4, lines 25-29), determining the likelihood of a collision (S7, figure 3), and impeding the movement of at least one vehicle to avoid the collision (S9, figure 3).

Claim Rejections – 35 USC § 251

6. Claims 1-26 are rejected under 35 U.S.C. 251 as being an improper recapture of broadened claimed subject matter surrendered in the application for the patent upon which the present reissue is based. See *Hester Industries, Inc. v. Stein, Inc.*, 142 F.3d 1472, 46 USPQ2d 1641 (Fed. Cir. 1998); *In re Clement*, 131 F.3d 1464, 45 USPQ2d 1161 (Fed. Cir. 1997); *Ball Corp. v. United States*, 729 F.2d 1429, 1436, 221 USPQ 289, 295 (Fed. Cir. 1984). A broadening aspect is present in the reissue which was not present in the application for patent. The record of the application for the patent shows that the broadening aspect (in the reissue) relates to subject matter that applicant previously surrendered during the prosecution of the application. Accordingly, the narrow scope of the claims in the patent was not an error within the meaning of 35 U.S.C. 251, and the broader scope surrendered in the application for the patent cannot be recaptured by the filing of the present reissue application.

a. As per claims 1-22, the applicant previously surrendered the subject matter of “at least one vehicle restrictor” in the prosecution of the original application. Originally filed claims 1-19 of Application No. 09/478,485 were drawn to a single “impedance device” (claim 1, line 22-23), and “a controllable road perturbation” (claims 18, line 8, and claim 19, line 9). The applied prior art Welford and Ceseri, taught a single controllable road perturbation. In the applicant’s amendment in response to the rejection (Paper No. 5 of 09/478,485), the amended claims 20-40 are now reciting “a plurality of vehicle restrictors”, and it is argued as distinguishable over the prior art based on the amended changes (pages 9-10).

b. As per claims 23 and 24, in the originally filed application, the claims were amended to overcome the teaching of Welford and Ceseri by adding the limitation that the system “determines the likelihood of a collision” as stated by the applicant on page 9 of Paper No. 5 of 09/478,485. Claims 23 and 24 do not **at least** contain the subject matter considered to be allowable in the original application.

c. As per claim 25, does not **at least** contain the subject matter argued to be allowable in the original application. Specifically, there are no vehicle restrictors, nor a controller as recited in the original claims.

d. As per claim 26, does not **at least** contain the subject matter argued to be allowable in the original application. Specifically, there are no vehicle restrictors, nor a controller as recited in the original claims.

Response to Arguments

7. Applicant's arguments filed 6/26/2002 have been fully considered but they are not persuasive.

a. As per claims 1-22, the applicant previously surrendered the subject matter of "at least one vehicle restrictor" in the prosecution of the original application. Originally filed claims 1-19 of Application No. 09/478,485 were drawn to a single "impedance device" (claim 1, line 22-23), and "a controllable road perturbation" (claims 18, line 8, and claim 19, line 9). In the applicant's amendment in response to the rejection (Paper No. 5 of 09/478,485), the amended claims 20-40 are now reciting "a plurality of vehicle restrictors", and it is argued as distinguishable over the prior art based on the amended claims (pages 9-10).

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hsu (US005574469A) teaches a locomotive collision avoidance method and system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric M Gibson whose telephone number is (703) 306-4545. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Cuchlinski can be reached on (703) 308-3873. The fax phone numbers for the organization where this application or proceeding is assigned are (703)

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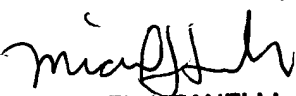
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305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

EMG
July 24, 2002


MICHAEL J. ZANELLI
PRIMARY EXAMINER